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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,564	04/22/2004	Lawrence Biebuyck	08626-00026USPT	6342
61060	7590	03/18/2008		
WINSTEAD PC P.O. BOX 50784 DALLAS, TX 75201			EXAMINER SMITH, MATTHEW J	
			ART UNIT 3635	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/829,564	Applicant(s) BIEBUYCK, LAWRENCE	
	Examiner MATT J. SMITH	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8-12,15,16,18,19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-12,15,16,18,19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>17Sep07,5Nov07</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 5, 6, 15, 16, 18, 19, 21, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The amended claims describe structure not adequately illustrated or disclosed in the specification. For Figures 2-6, no identifiers (i.e., numbers) are shown or the claim terminology used the specification. For example, the claims now limit the structure with "arm", "gasket", "tongue", and "groove"; terms which are not used in the specification nor identified in the drawings.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Biebuyck (6158182).

Biebuyck discloses, in Fig. 3, a vertical mullion 110 comprising: a first channel for receiving a first panel member, the first channel including a first side member of an increased length for receiving an increased portion of the first panel member, a second side member substantially parallel to and disposed from the first side member and of an increased length for receiving an increased portion of the first panel member, and a first base member substantially orthogonal to and connecting the first side member and the second side member; a second channel for receiving a second panel member, the second channel including a third side member of an increased length for receiving an increased portion of the second panel member, a fourth side member substantially parallel to and disposed from the third side member and of an increased length for receiving an increased portion of the second panel member, and a second base member substantially orthogonal to and connecting the third side member and the fourth side member; the first base member and the second base member are substantially coplanar; the first and second channels are oriented near an edge of the mullion; and the mullion is formed as a single extrusion.

Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Cudini (2963126).

Cudini discloses, in Fig. 4, a wall system comprising: a mullion 21 for securing sides of panel members 19; the mullion having a first side integrally formed with a first generally U-shaped channel 73 for securing a first panel portion having a first side interior leg for securing a portion of an first panel interior side and a first side exterior leg for securing a portion of the first panel exterior side, via strip 77; the mullion having a second side, oppositely disposed from the first side, integrally formed with a generally L-shaped channel 76 for securing a portion of a second panel member, the integrally formed L-shaped channel having a second side exterior leg for securing a portion of the second panel exterior side; the second side exterior leg extending from the second side in an opposite direction from and generally co-linear with the first side exterior leg; the second side being formed with a groove; an interlocking member having a bonding leg for securing a portion of an interior side of the second panel and a tongue adapted to mate with the groove; and the bonding leg in combination with the generally L-shaped channel together forming a second, generally U-shaped channel for securing the second panel portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 10, 11, 15, 16, 18, 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being obvious over Biebuyck in view of Vallance et al. (5706625).

Biebuyck discloses, in Fig. 3, a curtain wall system comprising: vertical mullion 110 formed with a first channel increased for securing a panel member; the first channel including a first arm; a first gasket attached to the first arm for contacting an entire length the panel first side; and a second arm disposed from and generally parallel to the first arm; a first bonding agent disposed along an entire length of the second arm for forming a seal between the second arm and the panel second side; horizontal sill member 140 formed with a second channel for receiving the panel member; the second channel of the horizontal mullion including a third arm, a second gasket attached to the third arm for contacting an entire length of the panel first side; a fourth arm disposed from and generally parallel to the third arm; the mullion first channel oriented near the mullion front edge and a back edge; sill second channel oriented near the sill front edge and a back edge; and the mullion and sill are formed as a single extrusion.

This reference also discloses a horizontal mullion comprising: a channel, for receiving a panel member, including a first side member of an increased length for receiving an increased portion of the panel member, the first side member to receive a bonding agent to form a seal, a base member for receiving a base portion of the panel member, a second side member of an increased length for receiving an increased portion of the panel member, and a gasket attached to the second side member for contacting an entire length of a second side of the panel member; the channel oriented near the horizontal mullion edge; the bonding agent is silicon; the horizontal mullion

formed as a single extrusion; the first channel disposed in the middle of the vertical mullion so that the panel member bisects the vertical mullion; and the first and second channels are disposed in the middle of the vertical mullion so that equal portions of the vertical mullion are disposed on each side of the first and second panel members.

This reference does not disclose the first bonding agent contacting more than one inch of the entire length of the second arm and contacting more than one inch of an entire length of the panel member second side; a second bonding agent disposed along an entire length of the fourth arm for forming a seal between the fourth arm and the second side of the panel member, the second bonding agent contacting more than one inch of the entire length of the fourth arm and adapted to contact more than one inch of an entire length of the panel member second side, one of the first and second side members receive substantially one inch or more of a bonding agent along the entire length of the at least one of the first and second side members, a seal at least one-inch wide along an entire length of a first side of the panel member, or the first and second channels each have a depth of at least one inch.

Vallance et al. present a panel holding channel 40 with a leg 44 longer than one inch to hold securing means 57 in an impact environment, e.g, hockey arena.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to fabricate the Beibuyck channel with the dimensions presented by Vallance et al. in order to maintain structural integrity after impact.

Response to Arguments

Applicant's arguments, see page 10, filed 31 December 2007, with respect to the rejection of claims 1-20 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new rejection is made in view of Vallance et al. and Cudini.

Vallance et al. is considered pertinent since the disclosed environments, hockey arena, soccer field, are known to be subject to impact-via either human or projectile. Thus, Vallance et al. would fabricate the system and individual parts, i.e., the channel, with impact considered.

Cudini is deemed relevant since applicant's base 300B is an L-shaped portion of a larger channel 300 (left-hand channel 300 in Fig. 5, Figures 3 and 4 illustrate T-shaped portions). Again, as noted above, the claims are broadly interpreted since the drawings and specification lack the terminology of the elements now claimed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATT J. SMITH whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot/
Supervisory Patent Examiner, Art
Unit 3635

MJS /M. J. S./
Examiner, Art Unit 3635
29 February 2008